The Role of Law and Policy in Assisting Families to Reach Healthy People’s Maternal, Infant, and Child Health Breastfeeding Goals in the United States

May 20, 2020

Healthy People - Background and the Role of Law and Policy in Increasing Rates and Duration of Breastfeeding

Angela McGowan, JD, MPH
Office of Disease Prevention and Health Promotion,
U.S. Department of Health and Human Services (HHS)
The Role of Law and Policy in Assisting Families to Reach Healthy People’s Maternal, Infant, and Child Health Breastfeeding Goals in the United States

What is Healthy People?

- Provides a strategic framework for a national agenda that communicates a vision for improving health and achieving health equity
- Identifies science-based, measurable objectives with targets to be achieved each decade
- Requires tracking of data-driven outcomes to monitor progress and to motivate, guide, and focus action
- Healthy People 2020 has 42 topic areas and over 1,200 objectives
- Contains 26 Leading Health Indicators covering 12 topic areas
- Healthy People 2030 is slated to release this year

Why Focus on Law?

- Law can be used as a lever to protect and promote health
  - Law reinforces public policies and standards
  - Establishes minimum standards for desired change
  - Grants authority and flexibility to governments to respond to community needs
  - Use and application of law have been demonstrated to protect and promote health
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Law and Health Policy Project

Reports and Related Products
- Reports and community “Bright Spots”

Webinar Series
- Focused on specific HP2020 topics
- Shares community examples of innovative uses of law and policy to improve health outcomes

Supporting the Development of Healthy People 2030 (HP2030)
- HP2030 Listening Session: 2018 Public Health Law Conference

For more information:

What Do We Mean by Law and Policy?

Federal
Tribal
Local
State

Private Entities
- Businesses
- Non-Profits
- Religious Groups

Statutes & Ordinances
- Regulations
- Case Law
- Licensure
- Accreditation

Handbooks
- Contract Language
- Budgets
- Guidance Documents

Law and Policy Actions

Power Tools Webinar Series
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Legal and Policy Tools for Public Health

1. Direct Regulation
   - Alter the Built or Physical Environment
2. Deregulation
   - Alter the Socioeconomic Environment
3. Taxation
4. Spending
5. Redress through Civil Litigation
   - Alter the Information Environment

NOTE: Law and legal policy can also be critical determinants of health. They shape every day life circumstances, societal institutions, and systems, and therefore, influence health and well-being in many ways.

- Graphic adapted from: Gostin LO, Wiley LF. Public health law: power, duty, restraint. Univ of California Press; 2016 Feb
- Secretary’s Advisory Committee for Healthy People 2030, Issue Brief: Law and Policy as Determinants of Health and Well-being
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Report Development Process Report Selection Criteria

- Public health field and/or Agency priority
- Clear ways law and policy can improve health
- Evidence-based knowledge to share
- Data availability (including state and local) – input from National Center for Health Statistics (NCHS)
- Ability to highlight state and local laws and practice
- Range of topics to engage various partners
- Emerging or established topic or issue
- Political or feasibility considerations

Maternal, Infant and Child Health Topic Area

- 73 objectives in areas including:
  - Morbidity and Mortality
  - Pregnancy Health and Behaviors
  - Preconception Health and Behaviors
  - Postpartum Health and Behavior
  - Infant Care
  - Disability and Other Impairments
- 2 Leading Health Indicators
- CDC’s National Center for Health Statistics manages the data
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Healthy People 2020: Maternal, Infant and Child Health (MICH) Objectives

- **MICH-21** - Increase the proportion of infants who are breastfed
- **MICH-22** - Increase the proportion of employers that have worksite lactation support programs
- **MICH-23** - Reduce the proportion of breastfed newborns who receive formula supplementation within the first 2 days of life
- **MICH-24** - Increase the proportion of live births that occur in facilities that provide recommended care for lactating mothers and their babies

<table>
<thead>
<tr>
<th>MICH Objective</th>
<th>2020 Baseline (year)</th>
<th>Most recent update (year)</th>
<th>2020 Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>MICH-21 Increase the proportion of infants who are breastfed</td>
<td>74.1 (2008)</td>
<td>60.6 (2014)</td>
<td>85.9</td>
</tr>
<tr>
<td>MICH-22 Increase the proportion of infants who are breastfed at 6 months of age</td>
<td>46.6 (2008)</td>
<td>57.3 (2014)</td>
<td>65.6</td>
</tr>
<tr>
<td>MICH-23 Increase the proportion of employers that have lactation support programs</td>
<td>24.6 (2008)</td>
<td>38.7 (2014)</td>
<td>46.1</td>
</tr>
<tr>
<td>MICH-24 Reduce the proportion of breastfed newborns who receive formula supplementation within the first 2 days of life</td>
<td>35.9 (2008)</td>
<td>47.5 (2014)</td>
<td>48.3</td>
</tr>
<tr>
<td>MICH-25 Increase the proportion of infants who are breastfed exclusively through 6 months of age</td>
<td>16.6 (2008)</td>
<td>26.9 (2014)</td>
<td>26.3</td>
</tr>
<tr>
<td>MICH-26 Increase the proportion of employers that have lactation support programs</td>
<td>31.3 (2008)</td>
<td>49.1 (2014)</td>
<td>38</td>
</tr>
<tr>
<td>MICH-27 Reduce the proportion of breastfed newborns who receive formula supplementation within the first 2 days of life</td>
<td>25.9 (2008)</td>
<td>14.5 (2014)</td>
<td>14.3</td>
</tr>
<tr>
<td>MICH-28 Increase the proportion of live births that occur in facilities that provide recommended care for lactating mothers and their babies</td>
<td>28.3 (2008)</td>
<td>28.3 (2014)</td>
<td>8.1</td>
</tr>
</tbody>
</table>

The Role of Law and Policy in Assisting Families to Reach Healthy People’s Maternal, Infant, and Child Health Breastfeeding Goals in the United States

Report Development Team

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Report Elements/Outline

- Introduction
- Background
- Interventions/Topics for Discussion
  - 3-5 Interventions or “Themes”
- “Bright Spots”/Community Examples
- Legal Research and Related Evidence
- Emerging Trends/Issues
- Areas for Additional Research
- Opportunities
- Conclusion

Focus of this Law and Health Policy Report

The role of law and policy in supporting breastfeeding in 3 areas:

1. Healthcare systems, providers and payers
2. Employment and school settings
3. Providing legal protections and accommodations for breastfeeding including in public places
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Law and Health Policy Report - Breastfeeding

Developing Healthy People 2030
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Three Pronged Approach to HP2030 Development

- Updated Framework (Vision, Mission, Overarching Goals)
  - Continued focus on SDOH and health equity
- Limit the number of objectives for Healthy People 2030
  - Reduce the number of measurable objectives by half (~400 objectives)
  - Produce a balanced and comprehensive set
  - Provide a more focused set of national actionable priorities
- New objective categories: Core, Developmental, Research
  - Ensure objective selection criteria identifies objectives that address public health issues shown to be high-impact priorities by current national data
- Improved objective organization and website structure

Healthy People 2030 Key Elements
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**Developing Healthy People 2030**

*Phase I
Development of Framework*
- Dec 2016
- 2017
- 2018
- June 2017
- Public Comment/Stakeholder Input
- Secretary’s Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2030 develops recommendations for HHS Secretary

*Phase II
Development of Objectives*
- Dec 2018
- 2019
- 2020
- Launch Healthy People 2030
- HP FIW develops guidance and Agency leads development recommendations for Healthy People 2030 framework and objectives

*The launch of Healthy People 2030 was delayed due to COVID-19.

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Review the Evidence on Maternity and Pediatric Care and Breastfeeding Outcomes
Evidence-based maternity care
Alison Stuebe, MD, MSc
University of North Carolina School of Medicine

Maternity care affects breastfeeding outcomes

Hospitals and health care settings
Hospitals can adopt evidence-based policies that support breastfeeding families—like allowing mothers and babies to stay in the same room after birth (room in) and providing breastfeeding training for providers, and connecting families with lactation support. States can encourage—or even require—hospitals to adopt these practices through state recognition programs or mandates.
Maternity care affects breastfeeding outcomes

Comparison of Proportion of Infants Still Breastfeeding (to Any Degree) During Year of Follow-up

Figure 1. Among women who initiated breastfeeding and intended to breastfeed for >2 months, percentage who stopped breastfeeding before 6 weeks according to the number of Baby-Friendly Hospital Initiative practices they experienced


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2019: % of live births occurring at BFHI designated facilities

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State-Level Programs

2017 USBC Survey; States with Active “10-Steps” Designation Programs

Reporting: mPINC Survey

2015: Average mPINC score among hospitals and birthing facilities

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**Reporting: NIS**

Percentage of U.S. Breastfed Infants Who Were Supplemented with Infant Formula Before 2 Days

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>22.3</td>
</tr>
<tr>
<td>2004</td>
<td>24.5</td>
</tr>
<tr>
<td>2005</td>
<td>24.8</td>
</tr>
<tr>
<td>2006</td>
<td>24.2</td>
</tr>
<tr>
<td>2007</td>
<td>25.6</td>
</tr>
<tr>
<td>2008</td>
<td>25.1</td>
</tr>
<tr>
<td>2009</td>
<td>23.3</td>
</tr>
<tr>
<td>2010</td>
<td>22.8</td>
</tr>
<tr>
<td>2011</td>
<td>19.4</td>
</tr>
<tr>
<td>2012</td>
<td>19.1</td>
</tr>
<tr>
<td>2013</td>
<td>17.1</td>
</tr>
<tr>
<td>2014</td>
<td>15.5</td>
</tr>
<tr>
<td>2015</td>
<td>17.2</td>
</tr>
<tr>
<td>2016</td>
<td>16.9</td>
</tr>
</tbody>
</table>

**CDC Technical Assistance**

Best Fed BEGINNINGS
Improving Breastfeeding Support in U.S. Hospitals

EMPower Breastfeeding
Enhancing Maternity Practices
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**Mandates**

All perinatal units in **California** are required to adopt the Ten Steps to Successful Breastfeeding by January 1, 2025.

Blue Cross Blue Shield of **Mississippi** has made Baby Friendly® Designation a requirement for hospitals to receive Blue Distinction for maternity care.

**Outpatient Support**

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Power Tools Webinar Series
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Clinical Trial: Baby-friendly Community Health Services

1. Have a written breastfeeding policy that is routinely communicated to all health-care staff
2. Train all staff in the skills necessary to implement the breastfeeding policy
3. Inform all pregnant women about the benefits and management of breastfeeding
4. Support mothers to initiate and maintain breastfeeding
5. Encourage exclusive and continued breastfeeding, with appropriately timed introduction of complementary food
6. Provide a welcoming atmosphere for breastfeeding families
7. Promote co-operation between health-care staff, breastfeeding support groups and local community


Baby-Friendly Community Health Services

<table>
<thead>
<tr>
<th>BABY-FRIENDLY COMMUNITY HEALTH SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANY BF 6 MO</td>
</tr>
<tr>
<td>EXCL BF 5 MO</td>
</tr>
<tr>
<td>EXCL BF 6 MO</td>
</tr>
</tbody>
</table>

Law and Health Policy |
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Access to Lactation Supplies and Support
The Women’s Preventive Services Initiative recommends comprehensive lactation support services (including counseling, education, and breastfeeding equipment and supplies) during the antenatal, perinatal, and postpartum periods to ensure the successful initiation and maintenance of breastfeeding.

<table>
<thead>
<tr>
<th>WHEN</th>
<th>WHO</th>
<th>WHAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>across the antenatal, perinatal, and postpartum periods</td>
<td>lactation consultants, breastfeeding counselors, certified midwives, certified nurse-midwives, certified professional midwives, nurses, advanced practice providers and physicians</td>
<td>as agreed upon by the woman and her lactation care provider, including, but are not limited to, double electric breast pumps (including pump parts and maintenance) and breast milk storage supplies</td>
</tr>
</tbody>
</table>
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Institutional Recommendations for Coverage of Lactation Services as Required Benefits

<table>
<thead>
<tr>
<th>Institutional Recommendation</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011 IOM Report[1]</td>
<td>Recommends comprehensive lactation support and counseling, and costs of renting breastfeeding equipment. A trained provider should provide counseling services to all pregnant women and to those in the postpartum period to ensure the successful initiation and duration of breastfeeding.</td>
</tr>
<tr>
<td>USPSTF 2016[2]</td>
<td>Recommends interventions during pregnancy and after birth to support breastfeeding (Level B: 2016). Interventions may include more than 1 component and be delivered over prenatal, perinatal, and postpartum periods. Interventions include promoting the benefits of breastfeeding, providing practical advice and direct support on how to breastfeed, and psychological support. Interventions can be categorized as professional support, peer support, and formal education. Although some of these categories are mutually exclusive, and interventions may be combined within and between categories.</td>
</tr>
<tr>
<td>2016 Women’s Preventive Services Initiative (WPSI)[3]</td>
<td>Recommends comprehensive lactation support services (including counseling, education, and breastfeeding equipment and supplies) during the antenatal, perinatal, and postpartum periods to ensure the successful initiation and maintenance of breastfeeding.</td>
</tr>
</tbody>
</table>

Medicaid Coverage for Lactation Supplies and Services

<table>
<thead>
<tr>
<th>Supplies and Services</th>
<th>Traditional Medicaid (n=48)</th>
<th>Medicaid Expansion (n=48)</th>
<th>Pregnancy Only Medicaid (n=48)</th>
<th>Not covered in any pathway (n=48)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric Breast Pump</td>
<td>36</td>
<td>NP*</td>
<td>33</td>
<td>6</td>
</tr>
<tr>
<td>Manual Breast Pump</td>
<td>21</td>
<td>NP*</td>
<td>29</td>
<td>10</td>
</tr>
<tr>
<td>Breastfeeding Education</td>
<td>27</td>
<td>15</td>
<td>26</td>
<td>14</td>
</tr>
</tbody>
</table>

Individual Lactation Consultation

<table>
<thead>
<tr>
<th></th>
<th>Hospital-Based</th>
<th>Outpatient (Clinic)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital-Based</td>
<td>26</td>
<td>11</td>
</tr>
<tr>
<td>Outpatient (Clinic)</td>
<td>16</td>
<td>13</td>
</tr>
</tbody>
</table>

Sample Letter:
Coverage for Lactation Consultant

To Whom It May Concern:

I am enrolled in a [INSURANCE COMPANY NAME] plan, policy number [POLICY NUMBER]. I recently tried to access lactation counseling that should be covered by my health insurance. The Patient Protection and Affordable Care Act requires insurance coverage of breastfeeding support and supplies with no cost-sharing. However, when I contacted [INSURANCE COMPANY NAME] about the coverage by [SPECIFY METHOD, PHONE] on [DATE], I was told I could not get coverage of [LACTATION COUNSELING] because [SPECIFY REASON, SUCH AS NO IN-NETWORK PROVIDERS].

Under § 1001 of the Patient Protection and Affordable Care Act (ACA), which amends § 2713 of the Public Health Services Act, all non-grandfathered group health plans and health insurance issuers offering group or individual coverage shall provide coverage of certain preventive services for women with no cost-sharing. The list of women's preventive services that must be covered in plan years starting after Aug. 1, 2012 includes “comprehensive lactation support and counseling and costs of renting or purchasing breastfeeding equipment” (see attachment).

2017 USBC Survey of Medicaid Coverage: Pumps & Lactation Consultants

[Map of the United States showing Medicaid coverage for pumps and lactation consultants by state.]

None
Pumps or Lactation Consultants
Pumps & Lactation Consultants
Did not respond

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FAQS ABOUT AFFORDABLE CARE ACT IMPLEMENTATION (PART XXIX) AND MENTAL HEALTH PARITY IMPLEMENTATION

October 23, 2015

Q3: The State where I live does not license lactation counseling providers and my plan or issuer will only cover services received from providers licensed by the State. Does that mean that I cannot receive coverage…?

A. No… lactation counseling must be covered without cost sharing by the plan or issuer when it is performed by any provider acting within the scope of his or her license or certification under applicable State law…


Opportunities for Improved Care and Coverage to Support Equity
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### Reporting and Equity

- **Model breastfeeding policy**: 19/20
- **Staff competency assessment**: 53/59
- **Prenatal breastfeeding education**: 92
- **Early initiation of breastfeeding**: 60
- **Teach breastfeeding techniques**: 91
- **Limited use of supplements**: 46
- **Rooming-in**: 39
- **Teach feeding cues**: 85
- **Limited use of pacifiers**: 38
- **Post-discharge support**: 30

Proportion black residents in maternity facility zip code: ≤12.2% ≥12.2%

### Equity and Ten Steps Care

Standardizing treatment can reduce provider bias and increase health equity

Effect of BFHI

- **Exclusive breastfeeding at 4 weeks**: 4.5%
- **Exclusive breastfeeding at 4 weeks**: -2.3%

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**Reporting: IBCLCs per 1,000 live births**

![Graph showing IBCLCs per 1,000 live births vs. proportion live births that are Black with a regression line and R² = 0.14.


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**Training & Career Development**

... there are not enough... IBCLCs, particularly in states with high populations of people of color, and not enough who share the background of women of color... fulfilling the educational criteria for IBCLC candidacy is easier for those already in the health profession, particularly registered nurses, and those able to afford the rather costly application fee, both subpopulations that skew White.
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Objectives

- Review the evidence on maternity and pediatric care and breastfeeding outcomes
  - In randomized controlled trials, hospital and clinic-level interventions improve population-level breastfeeding outcomes
- Discuss existing coverage of lactation support and supplies
  - Laws mandate private coverage for breastfeeding services
  - Medicaid policies vary considerably
- Describe opportunities for improved care and coverage to support equity
  - Maternity care and training among URMs are top priorities

Leveraging Support for Breastfeeding Employees and Students Using Law and Policy

Cheryl Lebedevitch
Unites States Breastfeeding Committee
Breastfeeding parents may be separated from their babies for many reasons:

- **62% of women** return to work before their child’s 1st birthday, with 23% returning within 2 weeks of giving birth
- **26% of undergraduate students** are also parents of dependent children, 50% of these students have children ages 5 or younger
- **61% of children under age 5** are in some type of regular child care arrangement

These circumstances have a significant impact on the breastfeeding experience!

- No matter where they are or what they’re doing, a breastfeeding parent must pump breast milk about as often as their baby usually eats
  - Maintain milk supply
  - Ensure adequate milk for baby while separated
  - Avoid discomfort, leaking, inflammation and infection
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Separation ≠ Breastfeeding Cessation

- Policy interventions can make continued breastfeeding possible:
  - Paid Family Leave
  - Workplace Accommodations
  - Breastfeeding-Friendly Child Care

The Public Health Case

- Increasing breastfeeding rates improves population health and…
- Supporting breastfeeding workers increases breastfeeding rates so…
- Supporting breastfeeding workers can be an effective public health intervention
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Policy Interventions Support Success

- Rates of breastfeeding initiation and duration are higher among women who:
  - have longer maternity leave
  - work part-time rather than full-time
  - have breastfeeding support programs in the workplace

- Higher rates of breastfeeding initiation is observed in states with laws that:
  - allow break time for pumping breast milk
  - require private areas to pump at work
  - include enforcement provisions

- Higher rates of exclusive breastfeeding rates at 6 months is observed in states with enforcement of pumping laws

- Breastfeeding at 6 months is associated with support from child care providers to feed expressed breast milk to infants and allow mothers to breastfeed on-site before or after work

Workplace Support in Healthy People 2020

**Data Source:** Society for Human Resource Management, Employee Benefits Survey

- Measure represents responses to survey question on whether the company has an onsite lactation/mother’s room

<table>
<thead>
<tr>
<th>NP2053 Objective</th>
<th>2020 Baseline (%w)</th>
<th>Most recent update (%)</th>
<th>2020 Target</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCHS (2.1) Increase the proportion of infants who are ever breastfed</td>
<td>76.1 (2009)</td>
<td>81.9 (2016)</td>
<td>81.9</td>
</tr>
<tr>
<td>NCHS (2.2) Increase the proportion of infants who are breastfed at 6 months</td>
<td>40.6 (2009)</td>
<td>60.8 (2016)</td>
<td>60.8</td>
</tr>
<tr>
<td>NCHS (2.3) Increase the proportion of infants who are breastfed at 1 year</td>
<td>24.4 (2009)</td>
<td>34.1 (2016)</td>
<td>34.1</td>
</tr>
<tr>
<td>NCHS (2.4) Increase the proportion of infants who are breastfed exclusively through 1 month</td>
<td>35.9 (2009)</td>
<td>40.2 (2014)</td>
<td>40.2</td>
</tr>
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<td>NCHS (2.5) Increase the proportion of infants who are breastfed exclusively through 3 months</td>
<td>15.4 (2009)</td>
<td>25.4 (2016)</td>
<td>25.4</td>
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<tr>
<td>OCHS (2.6) Increase the proportion of employees that have variable lactation support programs</td>
<td>25.0 (2009)</td>
<td>36.0 (2016)</td>
<td>36.0</td>
</tr>
<tr>
<td>OCHS (2.7) Increase the proportion of employees that have access to and can use lactation facilities within 2 hours of work</td>
<td>40.0 (2009)</td>
<td>48.0 (2016)</td>
<td>48.0</td>
</tr>
<tr>
<td>OCHS (2.8) Increase the proportion of employees that have access to and can use lactation facilities within 2 hours of work</td>
<td>25.0 (2009)</td>
<td>36.0 (2016)</td>
<td>36.0</td>
</tr>
<tr>
<td>OCHS (2.9) Increase the proportion of employees that have access to and can use lactation facilities within 2 hours of work</td>
<td>25.0 (2009)</td>
<td>36.0 (2016)</td>
<td>36.0</td>
</tr>
</tbody>
</table>

Data Source: National Center for Health Statistics, 2010-2014 National Health Interview Survey (NHIS), and National Survey of Family Growth (NSFG), 1982-2010.
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Looking Closer at the Data

- Only 15% of employees have access to paid family leave
  - Only 4% of the lowest-paid workers (those paid $10 or less per hour) have paid family leave, compared to 26% of the highest-paid workers
- Only 40% of employed women have access to both break time and private space
- Over 9 million women of childbearing age are not covered by the Break Time for Nursing Mothers law, the federal law that provides break time and private space for milk expression
- Women routinely report:
  - Postpartum employment plans affect their breastfeeding related decisions
  - Employment poses a challenge to breastfeeding
  - Inflexibility in work hours & locations
  - Lack of privacy, or are forced to pump in unsanitary bathrooms
  - Challenges storing expressed milk
  - Fears over job insecurity

Paid Family Leave Legislation

- **Federal**: Family and Medical Leave Act (FMLA)
  - 12 weeks of unpaid, job-protected leave per year for the birth and care of the newborn child of an employee
  - Approx. 40% of the workforce is not eligible
- **State Paid Leave Laws**:
  - California
  - Connecticut
  - District of Columbia
  - Hawaii
  - Massachusetts
  - New Jersey
  - New York
  - Oregon
  - Rhode Island
  - Washington
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Federal Legislation on Breastfeeding Workers

- **Break Time for Nursing Mothers Provision of the Fair Labor Standards Act:**
  - Requires break time and a private, non-bathroom space for breastfeeding employees to pump breast milk during the work day

- **Title VII of the Civil Rights Act:**
  - Prohibits discrimination on the basis of pregnancy, childbirth, and related medical conditions

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<tr>
<th>Workplace</th>
<th>Office of Disease Prevention and Health Promotion</th>
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State Legislation on Breastfeeding Workers

- More than half of U.S. states, as well as DC, Guam, Puerto Rico, and the U.S. Virgin Islands have laws that impact breastfeeding employees

- Two types of legislation:
  - **Workplace Accommodations:** Typically require break time and/or a private space for employees to pump during the work day
  - **Anti-discrimination Protection:** Prohibitions against discrimination based on sex, pregnancy, childbirth, and/or related medical conditions

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<th>State Legislation on Breastfeeding Workers</th>
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<tr>
<th>Legislation Impacting Breastfeeding Students</th>
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<tr>
<td>• <strong>Title IX</strong> of the Education Amendments of 1972 prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. Department of Education regulations:</td>
</tr>
<tr>
<td>o Specifically prohibit discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions</td>
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<tr>
<td>o A student cannot be penalized for missing class time in order to pump (including time missed during a long final exam), and a professor must let a student make up the work missed by being out of class pumping</td>
</tr>
<tr>
<td>o Encourage—but do not require—schools to designate a private room for mothers to breastfeed, pump milk, or address other needs related to breastfeeding during the school day</td>
</tr>
<tr>
<td>• <strong>California, Illinois, Nebraska, and Virginia</strong> have laws that address the needs of breastfeeding students</td>
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<tr>
<th>Federal Breastfeeding &amp; Child Care Policy</th>
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<tbody>
<tr>
<td>• No national laws, but federal policy, programs, and initiatives address breastfeeding support in child care settings:</td>
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<tr>
<td>o <strong>Early Head Start</strong> program performance standards require programs to safely store and handle breast milk and accommodate mothers who wish to breastfeed during program hours</td>
</tr>
<tr>
<td>o <strong>Federal Child and Adult Care Food Program</strong> patterns were updated in 2016 to allow reimbursement to the child care facility when the mother directly breastfeeds her child at the site</td>
</tr>
<tr>
<td>o <strong>Let’s Move! Child Care</strong> initiative invited child care and early education providers to meet 5 goals, including support for breastfeeding</td>
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</tbody>
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State Breastfeeding & Child Care Policy

- Laws in Mississippi and Maryland require child care facilities to **accommodate breastfeeding**
- Louisiana law prohibits child care facilities from **discriminating against breastfed babies**
- **Every state regulates child care in some manner.** Many states have policies & regulations on:
  - accommodation requirements for breastfeeding families
  - training requirements on breast milk storage, handling, and preparation
  - protection from discrimination

Providing Legal Protections and Accommodations for Breastfeeding and Lactating Mothers in Public

Leila Barraza, JD, MPH
The University of Arizona Mel and Enid Zuckerman College of Public Health
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**Public Breastfeeding**

Protections for breastfeeding mothers are primarily based in state law and vary state-to-state.

**Public Breastfeeding Laws**

- 50 states in the U.S., the District of Columbia, the Virgin Islands, and Puerto Rico have laws permitting women to breastfeed in public locations.

**Community**

Laws that protect the right to breastfeed in public and require lactation rooms in community spaces can create a supportive environment for breastfeeding families. This also helps to normalize breastfeeding in the community.
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Public Breastfeeding Laws

- 31 states, plus the District of Columbia, the Virgin Islands, and Puerto Rico, exempt breastfeeding from public indecency laws
- 19 states, plus Puerto Rico, exempt breastfeeding mothers from jury duty or permit mothers to postpone such service

Public Breastfeeding Exempt from Indecency Laws

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**Breastfeeding Mothers Exempt from Jury Duty or Allowed to Postpone**

![Map showing states with enforcement provisions for violations of public breastfeeding rights](https://www.ncsl.org/research/health/breastfeeding-state-laws.aspx#State)

**Enforcement of Laws**

- As of 2016, only 10 states, plus the District of Columbia and Puerto Rico, permit breastfeeding mothers to bring legal actions against those who interfere with public breastfeeding rights.

- Enforcement provisions include fines and claims against the company or organization.

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**Enforcement Provision for Violations of Public Breastfeeding Rights**

- **Wile M. Breastfeeding State Laws.**

**Breastfeeding & Air Travel**

- A 2014 survey of 100 airports found that only 8% provided a private lactation room.
- Friendly Airport for Mothers Act (incorporated into FAA Reauthorization Act of 2018)
  - Requires all large- and medium-sized airports to provide a clean, private, non-bathroom space in each terminal for the expression of breast milk.
- In Illinois and California, airports must contain at least one lactation facility.
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### Bottles and Breastfeeding Equipment Screening Act (BABES)

- Signed into law December 16, 2016
- Requires TSA to provide “training to ensure its officers consistently enforce TSA Special Procedures related to breast milk, formula, and infant feeding equipment across all airport security checkpoints”

### Government Buildings

- Mothers may breastfeed at a Federal building or on Federal property if the woman and child are otherwise authorized to be present
- Fairness for Breastfeeding Mothers Act of 2019
  - Requires certain public buildings to include lactation areas
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Correctional Facilities

- In New York, if a mother is breastfeeding at the time she is committed, a child under one may accompany the mother to the facility.

Bright Spot Example

- **Boulder County Public Health (BCPH) efforts to increase breastfeeding in their county:**
  - BCPH helps childcare and health care providers, employers, and people who manage public spaces create their own breastfeeding-friendly policies by developing templates and providing technical assistance.
  - BCPH has partnered with the Colorado Health Institute (CHI) External Web Site Policy and several other Colorado county health departments to share various models designed to promote breastfeeding.

- Beginning the work at the county level and leveraging local partnerships is at the heart of BCPH’s strategy.
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Bright Spot Example

Boulder County Outcomes:

- About 95% of infant childcare providers in Boulder County have been designated breastfeeding friendly.
- As many as 61 organizations in Boulder County have been designated as breastfeeding-friendly employers. They all have formal lactation policies.
- In a 2017 survey, over 80% of Boulder County employees who used BCPH’s family-friendly policies said they reached or surpassed their breastfeeding goals—far higher than the national average of 33%.

Discussion